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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BRENDA CHERRY EDWARDS,

Plaintiff,

v.

STEPHEN ANTHONY LATTIMER,
Individually; STURGEON ELECTRIC
COMPANY, INC., a foreign corporation;
DOES I through XX, inclusive; and ROE
CORPORATIONS I through XX, inclusive;

Defendants.

CASE NO.: 2:18-cv-01072-JCM-NJK

**PLAINTIFF'S MOTION TO EXTEND
DISCOVERY DEADLINES
[SECOND REQUEST]**

REQUEST FOR EMERGENCY RELIEF

Plaintiff BRENDA CHERRY EDWARDS, by and through her counsel of record, the law firm MAINOR WIRTH, LLP, hereby moves to extend the discovery plan and scheduling order in this case on an emergency basis.

I.

INTRODUCTION AND PROCEDURAL BACKGROUND

This action arises from a motor vehicle accident on January 16, 2016. Plaintiff was facing northbound on a private driveway of the shopping center "Rancho sierra Center" located at 4440

1 Rancho Dr. She was at a complete stop and waiting until it was clear for her to exit the parking
2 lot. Defendant, STEPHEN ANTHONY LATTIMER, while in the course and scope of his
3 employment with STURGEON ELECTRIC COMPANY, INC., was traveling eastbound on
4 Torrey Pines. He proceeded to execute a right turn into the Rancho Sierra Center, but his turn so
5 wide and at such a fast rate of speed that he collided with the side of Plaintiff's vehicle.
6 Defendant's negligence caused significant bodily injury to Plaintiff.

7 Plaintiff filed her Complaint on January 12, 2018. Once the case was removed from state
8 court, a Joint Discovery Plan and Scheduling Order was entered on July 17, 2018. (Dkt. 14). The
9 parties then submitted their first Stipulation to Enlarge Discovery Plan and Scheduling Order.
10 (Dkt. 17). This Order extended the initial expert deadline to January 14, 2019. *Id.*

11 On December 13, 2018, undersigned counsel learned that Plaintiff had been admitted to
12 the ER with extreme lower back pain and difficulty walking. The ER doctor advised Plaintiff to
13 return to her primary surgeon, Dr. Jason Garber, and remain on bed rest until Dr. Garber could
14 evaluate her. The ER doctor believed that she may require surgery. Plaintiff met with Dr. Garber
15 on December 14, 2018. He recommended an MRI and CAT scan that is scheduled to take place
16 on January 25, 2018. *See* expert report from Jason Garber, M.D. attached hereto as **Exhibit 1**. In
17 the report, Dr. Garber states: "Further recommendations will be forthcoming based upon the
18 information obtained in the recent imaging studies." *Id.* Undersigned is in the process of
19 collecting the relevant medical records.

20 As of December 13, 2018, the parties were working to schedule the depositions of
21 Plaintiff and Defendant LATTIMER for early 2019, as well as obtaining Plaintiff's medical
22 records—both past and present. *See* correspondence attached hereto at **Exhibit 2**. Since the initial
23 expert deadline was quickly approaching and Plaintiff's prognosis had become more complicated,
24 the parties agreed to extend the discovery deadlines by 90 days. They submitted their second
25 Stipulation and Order to Enlarge Discovery Plan and Scheduling Order on December 21, 2018.
26 (Dkt. 19).

27 Unfortunately, the stipulation did not detail Plaintiff's medical condition in sufficient
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1 detail, so that United States Magistrate Judge Nancy Koppe denied the parties' stipulation. (Dkt.
2 20). In light of the initial expert deadline of January 14, 2019, Plaintiff submits this emergency
3 motion to enlarge the discovery plan by 90 days based on Plaintiff's worsening medical condition.

4 **II.**

5 **DISCOVERY COMPLETED TO DATE**

6 To date, Plaintiff has produced the following discovery:

- 7 • Plaintiff's Disclosure of Witnesses and Production of Documents Pursuant to
- 8 FRCP 26(a)(1), served July 25, 2018
- 9 • Plaintiff's Answers to Defendant Sturgeon Electric Company, Inc.'s First Set of
- 10 Interrogatories, served September 12, 2018
- 11 • Plaintiff's Response to Defendant Sturgeon Electric Company, Inc.'s First Set of
- 12 Requests for Production of Documents, served September 12, 2018
- 13 • Plaintiff presented for an FRCP 35 Examination on December 12, 2018
- 14 • Plaintiff's First Set of Requests for Admission to Defendant Stephen Anthony
- 15 Lattimer, served December 7, 2018
- 16 • Plaintiff's First Set of Interrogatories to Defendant Stephen Anthony Lattimer,
- 17 served December 7, 2018
- 18 • Plaintiff's First Set of Requests for Production to Defendant Stephen Anthony
- 19 Lattimer, served December 7, 2018
- 20 • Plaintiff's First Set of Interrogatories to Defendant Sturgeon Electric Company,
- 21 Inc., served December 7, 2018

22 To date, Defendants have produced the following discovery:

- 23 • Defendants Stephen Anthony Lattimer and Sturgeon Electric Company, Inc.'s
- 24 Initial Disclosures of Witnesses and Documents Pursuant to FRCP 26(a)(1) and
- 25 Local Rule 26-1, served October 9, 2018
- 26 • Defendants Stephen Anthony Lattimer and Sturgeon Electric Company, Inc.'s First
- 27 Supplement to Initial Disclosures of Witnesses and Documents Pursuant to FRCP
- 28

26(a)(1) and Local Rule 26-1, served October 12, 2018

- Defendant Stephen Anthony Lattimer's Responses to Plaintiff's First Set of Requests for Admissions, served December 18, 2018

III.

DISCOVERY THAT REMAINS TO BE COMPLETED

1. Deposition of Plaintiff (**being scheduled February 12 or 13, 2019**)
2. Out-of-State Deposition of Defendant Stephen Anthony Lattimer, (**scheduled for February 5, 2019 in Portland, Oregon**).
3. Out-of-State Deposition of FRCP 30(b)(6) Representative for Defendant Sturgeon Electric Co (**topics provided to Defendants on January 11, 2019 and being scheduled in February 2019**) .
4. Deposition of Rodney Bolin
5. Custodian of Records Depositions for Plaintiff's prior medical history:
 - a. Healthcare Partners of Nevada
 - b. Western Regional Center for Brain and Spine Surgery
 - c. Southwest Medical Associates
 - d. Desert Springs Hospital
 - e. Quest Diagnostics
 - f. Summerlin Hospital
 - g. Surgical Weight Control Center
 - h. Valley Hospital
 - i. LMC Pathology Services
 - j. Suhattai Gammerdsiri, M.D.
 - k. Gastroenterology Associates
 - l. Brian A. Berelowitz, M.D.
 - m. Valley Endocrinology
 - n. Avencia Medical Center
 - o. The Hand & Wrist Center
 - p. Las Vegas Skin and Cancer Clinics
6. Production of expert reports (**Plaintiff intends to submit an initial report from Dr. Garber by January 14, 2018; however, his opinions are largely dependent on additional imaging studies in light of her worsening medical condition.**)
7. Additional written discovery

1 8. The parties will take the depositions of any other witnesses identified through
2 discovery.

3 This Request for an extension of time is not sought for any improper purpose or other
4 purpose of delay. Rather, it is sought by the parties solely for the purpose of allowing sufficient
5 time to conduct discovery, particularly with regard to Plaintiff's medical condition and the
6 damages related thereto.

7 IV.

8 **REASONS WHY DISCOVERY HAS NOT BEEN COMPLETED**

9 Recently counsel met and conferred regarding an extension of time to complete the
10 remaining discovery in this case as outlined above. Counsel for the respective parties agreed to
11 extend the deadlines by 90 days to allot sufficient time to gather additional medical records with
12 regard to Plaintiff's worsening medical condition.

13 Plaintiff continues to receive ongoing medical treatment in connection with the subject
14 accident and the parties are working diligently to obtain the ongoing treatment records and billing.
15 Moreover, Plaintiff has a long standing medical history with prior surgical treatment to the body
16 parts which are at issue in the instant matter. Counsel for the parties are in the process of
17 obtaining copies of Plaintiff's extensive medical history which needs to be reviewed by the
18 parties' respective medical experts prior to the completion of their initial reports, and Plaintiff has
19 agreed to give Defendants an extension to disclose any Rule 35 examination reports.

20 Counsel for the parties are also diligently working to take the out-of-state depositions of
21 Defendant Stephen Anthony Lattimer, as well as the FRCP 30(b)(6) deposition of Defendant
22 Sturgeon Electric Company, Inc. Liability does not appear to be at issue, although these
23 depositions will help determine the necessity of liability experts.

24 V.

25 **PROPOSED REVISED DISCOVERY SCHEDULE**

26 Plaintiff's request for extension of discovery complies with Local Rule 6-1 and 26-4 and
27 should be granted. Plaintiff requests an extension, based on good cause, for the aforementioned
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reasons. The parties agreed that additional time was necessary to evaluate Plaintiff's ongoing medical treatment, gather additional medical records, and hire medical experts that can opine to causation and damages in this case. The parties are also working to take the depositions of out-of-state witnesses.

The following is a list of the current discovery deadlines and the parties' proposed extended deadlines.

Discovery Cut-Off:	3/14/2019	6/12/2019
Amendments to Pleadings:	12/13/2019	Closed
Initial Expert Disclosures:	1/14/2019	4/15/2019
Interim Status Report:	1/14/2019	4/15/2019
Rebuttal Expert Disclosures:	2/12/2019	5/13/2019
Dispositive Motions:	4/15/2019	7/15/2019
Joint Pretrial Order:	5/14/2019	8/12/2019

This Request for an extension of time is not sought for any improper purpose or other purpose of delay. Rather, it is sought by the parties solely for the purpose of allowing sufficient time to conduct discovery in this multi-party case and adequately prepare their respective cases for trial.

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1 This is the second request for an extension of time in this matter. The Plaintiff
2 respectfully submits that the reasons set forth above constitute compelling reasons and good cause
3 for the short extension.

4 DATED this 11 day of January, 2019.

5 **MAINOR WIRTH, LLP**

6 /s/ Bradley S. Mainor

7 BRADLEY S. MAINOR, ESQ.

8 Nevada Bar No. 7434

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14 *Counsel for Plaintiff*

15 **ORDER**

16 IT IS SO ORDERED.

17 DATED this 14th day of January, 2019.

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20 **UNITED STATES MAGISTRATE JUDGE**